**Editor's note: appealed -- aff'd, Civ.No. 82-1327 (D.D.C. May 15, 1984)**

OTTLIN D. HASS

IBLA 81-911 Decided February 10, 1982

Appeal from decision of Montana State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease application M 49601.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Filing

   An oil and gas lease application, Form 3112-1 (July 1980), is not completed in accordance with regulation 43 CFR 3112.2-1(a) or the instructions on the application itself where questions (d) through (f), dealing with parties in interest other than those elsewhere disclosed, assignments, and multiple filings are left unanswered. An incomplete application must be rejected, regardless of whether the desired information is indicated on an attachment or in other documents in the file.

APPEARANCES: Bruce A. Budner, Esq., Dallas, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Ottlin D. Hass has appealed from a decision of the Montana State Office, Bureau of Land Management (BLM), dated July 2, 1981, rejecting his noncompetitive oil and gas lease application, M 49601, for failure to complete properly his simultaneous oil and gas lease application form in accordance with 43 CFR 3112.2-1(a). Appellant's application was drawn with first priorty for parcel number MT 100 in the November 1980 simultaneous oil and gas lease drawing. 1/

1/ The BLM decision mistakenly refers to parcel number MT 700, which does not appear in the list of parcels offered in the November 1980 simultaneous drawing.

The basis for the BLM decision was appellant's failure to answer the questions on the back of his application, items (d), (e), and (f). 2/

In his statement of reasons for appeal, appellant contends that his agent, Federal Energy Corporation (FEC),

> attached to the application a document entitled "Addendum to Service Agreement," a copy of which is attached hereto and marked as Exhibit "B." It contains a statement that FEC is authorized to sign applications on Mr. Hass' behalf, followed by three statements that appear on the application form itself and by the three questions, differing only in that in the Addendum they specifically mention FEC. It is signed by Mr. Hass. Each of the questions on the Addendum is followed by spaces labeled Yes and No. The "No" space for each question is marked by an X. [3/] [Emphasis added.]

Appellant argues that he has not failed to comply with 43 CFR 3112.2-1(a) because either the regulations do not require that the questions be answered or, if they must be answered, that they be answered

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2/ Items (d) through (f) are a series of questions, each of which is followed by boxes to be checked "Yes" or "No" in response. The questions are:

"(d) Does any party, other than the applicant and those identified herein as other parties in interest, own or hold any interest in this application, or the offer or lease which may result?

"(e) Does any agreement, understanding, or arrangement exist which requires the undersigned to assign, or by which the undersigned has assigned or agreed to assign, any interest in this application, or the offer or lease which may result, to anyone other than those identified herein as other parties in interest?

"(f) Does the undersigned have any interest in any other application filed for the same parcel as this application?"

3/ There is some question whether appellant submitted an addendum on which the relevant questions had been answered with his application. There is no copy of such an addendum in the record. The record, however, does contain a copy of the addendum, unsigned and undated, filed by FEC along with a cover letter dated Nov. 20, 1980. Answers to the questions, however, are not marked. The case of Vincent M. D'Amico, 55 IBLA 116, 119 (1981), similarly involved a situation where FEC submitted a blank copy of the addendum used by it and its clients. The copy of the addendum submitted by appellant with his statement of reasons (Exhibit "B") is signed by appellant and dated May 7, 1981, well after the November 1980, simultaneous drawing. Answers to the questions are marked on this copy.

on the form. Appellant points out that an applicant is permitted by 43 CFR 3102.2-7(a), requiring the disclosure of other parties in interest, to set forth the names of other parties in interest "on a separate accompanying sheet." Appellant also argues that requiring that the questions be answered on the form itself is arbitrary and capricious because it "has nothing to do with the convenience of administration or integrity of the simultaneous leasing program." Appellant points out that "applications routinely come with attachments," e.g. regarding other parties in interest, and that his attachment is easily read and understood. Finally, appellant argues that requiring that the questions be answered on the form itself is arbitrary and capricious where the Department has neither given notice of such a requirement, either in the regulations or in the application form, nor applied such a requirement consistently. 4/ Appellant cites the case of Brick v. Andrus, 628 F.2d 213 (D.C. Cir. 1980), wherein the court held that the Department may not reject a drawing entry card (now a simultaneous oil and gas lease application form) for failure to enter the offeror's name in the proper order indicated by the instructions on the card--last name, first name, middle initial--where the Department's regulations do not specify the precise manner in which cards must be completed and where the Secretary has not applied such a rule consistently.

[1] The applicable regulation, 43 CFR 3112.2-1(a) provides in relevant part: "An application to lease under this subpart consists of a simultaneous oil and gas lease application on a form approved by the Director, Bureau of Land Management, completed, signed and filed pursuant to the regulations in this subpart." (Emphasis added.)

This Board has consistently held that an applicant has not complied with 43 CFR 3112.2-1(a) where he has failed to answer questions (d) through (f) on the application form and that failure to do so properly results in rejection of the application. James E. Webb, 60 IBLA 321 (1981); Robert D. Alexander, 59 IBLA 118 (1981); Simon A. Rife, 56 IBLA 378 (1981); Vincent M. D'Amico, supra.

Furthermore, we have also consistently held that an attachment purporting to answer the questions (d) through (f) does not constitute compliance with the regulations. James E. Webb, supra at 325, and cases cited therein. In Robert D. Alexander, supra at 121, we stated:

> The information required under items (d), (e), and (f) is part of the certification of qualifications required of all applicants for oil and gas leases. The certification

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4/ Appellant alleges that the Colorado State Office has "routinely accepted" applications where the questions were answered on an attached sheet and issued leases based on such applications.

> of qualifications is applicable only to the application for which it is made. The certification must be made on all applications for lease and can neither be provided by attachment nor incorporated by reference. See Clyde K. Kobbeman, * * * [58 IBLA 268, 88 I.D. 289 (1981)]. 5/

Nor does the case cited by appellant, Brick v. Andrus, supra, require a different result. This case is not similar to Brick. Brick involved a question of the precise manner in which an application must be completed. This case involves a question of the completion of an application. 43 CFR 3112.2-1(a) states that an application consists of a "completed" approved application form. This language provides ample notice of this requirement. Failure to complete an application by virtue of omitting the answers to questions (d) through (f) is simply not compliance. 6/

The result is not changed because various BLM state offices may have interpreted the regulation differently. Appellant is not entitled to rely on an erroneous interpretation by BLM employees in other state offices, violative of 43 CFR 3112.2-1(a), permitting the acceptance of applications which do not contain the answers to question (d) through (f). 43 CFR 1810.3(c); see Robert D. Alexander, supra at 122.

The rule requiring completion of the approved application form promotes the efficient administration of the simultaneous oil and gas leasing program in view of the large number of applications submitted. We note that the November 1980 simultaneous drawing involved 96,669 filings for 150 parcels. The use of an approved form offers the element of uniformity, essential to the processing of large numbers of documents. As we stated in William K. DuKate, 35 IBLA 51, 52 (1978):

> The rationale for demanding preciseness of completion by offerors in simultaneous oil and gas drawings is sound. Faced with a great number of filings, the various BLM State Offices have a substantial administrative burden in processing not only the entry cards for oil and gas drawings,

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5/ Also in Vincent M. D'Amico, supra at 119, we stated:

"Nowhere do the application or regulations suggest that items (d) through (f) may be answered by attachment. * * * Although the application does contemplate that the names of other parties in interest or amendments to one's statement of qualifications may be submitted by attachment, the questions posed by items (d) through (f) are distinct issues."

6/ The court in Brick itself distinguished those cases where information was omitted from drawing entry cards when it stated that the phrase "signed and fully executed," which appeared in 43 CFR 3112.2-1(a) (1979), and is similar to "completed, signed and filed" contained in the present version of 43 CFR 3112.2-1(a), "may be reasonably construed as requiring responses to all information blanks on the entry card, as IBLA decisions have done * * *." Id. at 216 n.8.

> but also applications in other matters. Thus, it is necessary for each oil and gas offeror to perform the simple task of carefully filling out the boxes on his entry card if the Department is efficiently and accurately to fulfill its responsibility for administering the oil and gas leasing program. An offeror who fails to satisfy the Department's unburdensome filing demands cannot fairly expect that his offers will be accepted ahead of those later-drawn offers which have been filed with the requisite care.

The Board has consistently required strict compliance with the substantive requirements of the regulations concerning the filing of applications in the simultaneous oil and gas leasing program, especially in cases involving omitted information. See H. L. McCarroll, 55 IBLA 215 (1981), and cases cited therein. We continue to adhere to the requirement of strict compliance. Vincent M. D'Amico, supra at 118.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Bruce R. Harris
Administrative Judge

We concur:

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Anne Poindexter Lewis
Administrative Judge

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Edward W. Stuebing
Administrative Judge